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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,707	12/17/2001	Richard McQuary	PE1-016	5327
21567	7590	10/30/2003	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			KIM, EUGENE LEE	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 10/30/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/024,707

Applicant(s)

MCQUARY ET AL.

Examiner

Eugene L Kim

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) 8-10, 13, 26, 46-61, 63, 85-87 and 94-106 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 11, 12, 27-45, 62, 64-84, 88-93 is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 8-10, 13, 26, 46-61, 63, 85-87, 94-106 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (#4,522,012). Nelson shows a bag dispenser 24, an insertion assembly 100 which moves from a retracted to an extended position. The mandrel is read on means 119 and Nelson also shows a vacuum head which includes a plurality of movable vacuum heads 75, 54. The vacuum head may engage a flexible bag while the insertion assembly is in its extended condition as claimed. The vacuum heads may be controllably moved on opposite sides of the insertion assembly as shown in figure 3 with vacuum heads 75, 54. Regarding the shape of the mandrel, the examiner notes that little patentable weight is given to the configuration of elements unless there is some unexpected result from the particular configuration. See *in re Dailey*, 149 USPQ 47 (CCPA 1976). Regarding the discharge air limitation, the examiner notes that it is well known in the art to discharge air into bags to facilitate bag placement. Nelson shows a

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cuffing assembly C wherein the assembly includes cuffing finger means 125 which are vertically movable between rollers 126, 127. Nelson shows the cuffing finger being used to invert the open end of the top edges as shown in figure 12. Nelson discloses that each subassembly includes a cuffing mechanism which infers that there is a plurality of cuffing fingers. Inherently, there are going to be cuffing fingers on both ends of the container to cuff both ends of the bag as well as some form of rotary actuating means to vertically move the fingers between rollers 126, 127.

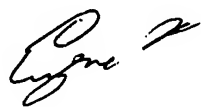
4. Claims 1-7, 11, 12, 27-45, 62, 64-84, 88-93 are allowed.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herrin #078 shows a continuous timing operation to insert inner containers into outer containers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene L Kim whose telephone number is 703 308-1886. The examiner can normally be reached on Tuesday-Friday 8 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703 308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.



**EUGENE KIM**  
PRIMARY EXAMINER